

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jose Santoya Juarez,

Petitioner,

v.

Civil No. 14-4048 (JNE/FLN)
ORDER

Steve Hammer, Warden, M.C.F.–Rush City;
and Lori Swanson, Attorney General for the
State of Minnesota,

Respondents.

Petitioner was found guilty of attempted first-degree criminal sexual conduct, second-degree criminal sexual conduct, kidnapping, and third-degree assault. He was sentenced to life imprisonment without the possibility of release on the charge of second-degree criminal sexual conduct. Petitioner appealed, and the Minnesota Supreme Court ultimately affirmed. *State v. Juarez*, 837 N.W.2d 473 (Minn. 2013).

Petitioner sought relief under 28 U.S.C. § 2254 (2012). He claimed that his sentence violates the Eighth Amendment and that the state court improperly relied on testimony and findings from the guilt phase of his trial at the sentencing phase. In August 2015, the Court granted the Minnesota Attorney General’s motion to dismiss. Petitioner’s § 2254 petition proceeded against Steve Hammer.

In a Report and Recommendation dated March 3, 2016, the Honorable Franklin L. Noel, United States Magistrate Judge, recommended that Petitioner’s § 2254 petition be denied, that the action be dismissed with prejudice, and that no certificate of appealability be issued. Petitioner objected to the recommended denial of his petition “[f]or reasons

previously argued” and to the recommended denial of a certificate of appealability. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court adopts the Report and Recommendation [Docket No. 29].

Therefore, IT IS ORDERED THAT:

1. Petitioner’s petition for writ of habeas corpus under 28 U.S.C. § 2254 [Docket No. 1] is DENIED.
2. This action is DISMISSED WITH PREJUDICE.
3. A certificate of appealability is DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 5, 2016

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge